

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

U.S. BANK NATIONAL ASSOCIATION,
as Trustee for Greenpoint Mortgage Funding
Trust Mortgage Pass-Through Certificates,
Series 2006-AR4,

No. 3:16-cv-01307-AC

Plaintiff,

OPINION AND ORDER

v.

TERENCE EDWARDS et al.,

Defendants.

MOSMAN, J.,

On March 14, 2019, Magistrate Judge John V. Acosta issued his Findings and Recommendation (F&R) [117], recommending that I should GRANT in part and DENY in part Plaintiff's Motion for Attorney Fees [101] and Bill of Costs [103]. Neither party objected.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the

court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Judge Acosta found that U.S. Bank did not file an affidavit in support of its Bill of Costs [103], as required by Local Rule 54-1(a)(1) and 28 U.S.C. § 1924. F&R [117] at 17. But counsel for U.S. Bank signed a declaration on the Bill of Costs that satisfies the requirements of Local Rule 54-1(a)(1) and 28 U.S.C. § 1924. Therefore, I do not adopt Judge Acosta's finding that U.S. Bank failed to comply with these requirements or his findings regarding support in the record for U.S. Bank's costs. *See* F&R [117] at 17–18. Because Judge Acosta found that the record verified the necessity and reasonableness of U.S. Bank's costs for transcripts of Mr. Edwards's depositions, my narrow exception does not affect the validity of Judge Acosta's recommendation on U.S. Bank's Bill of Costs.

CONCLUSION

Upon review, I agree with Judge Acosta's recommendation and I ADOPT the F&R [117] except as noted above. I GRANT in part and DENY in part Plaintiff's Motion for Attorney Fees [101] and Bill of Costs [103]. Plaintiff is awarded \$27,150.20 in attorney fees and \$1,367.00 in costs.

IT IS SO ORDERED.

DATED this 31 day of May, 2019.



MICHAEL W. MOSMAN
Chief United States District Judge